

FOREIGN SERVICE DESPATCH

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FROM : AmConsul Khorramshahr

12  
 DESP. NO.

TO : THE DEPARTMENT OF STATE, WASHINGTON.

August 31, 1960 4315721

REF : Consulate Telegrams 78 of May 18, 1960 and 80 of June 1, 1960;  
 Consulate Despatch No. 70 of June 5, 1960

67 For Dept. Use Only	ACTION	DEPT.
	REC'D 9/6	IN F O R M A T I O N O T H E R
RMR-2 INR-7 E-7 REP-1 GE-1 ICA-11 AIR-6 CIA-10 NSIA-10 COM-10 TR-3 FRB-3 NVA-3 NSA-2 ARMY-4		

SUBJECT: REOPENING OF THE SHATT AL ARAB DISPUTE

SUMMARY

The Shatt al Arab dispute has again flared up as the result of Iranian efforts to take over the responsibility, heretofore held by Iraq, for berthing vessels in the port of Abadan, where Iran's huge oil refinery is located. The Iraqis have threatened to refuse to provide any vessels which accept Iranian berthing masters with the pilotage necessary to navigate the Shatt al Arab river to the Persian Gulf. Faced with the possibility of tanker traffic stoppage and the consequent closing of the refinery, the Iranians have backed off temporarily to allow time for discussions with the Iraqis which they hope will result in the latter's cooperation. However, the Iranians consider this question to be primarily a matter for Iranian determination since it concerns solely Iranian waters. Unless some agreement can be reached, it is clearly possible that the whole Shatt al Arab question may be reopened.

1. Background

The present phase of the constantly recurring Shatt al Arab dispute between Iran and Iraq stems from the Iranian Council of Ministers' approval of a decree on April 16, 1960, establishing a Khorramshahr General Port Office (see Enclosure 1). This office was given jurisdiction of the navigable waters of the Karun River from Ahwaz south to Khorramshahr and the Iranian ports on the Shatt al Arab from Khorramshahr to the Persian Gulf. (The Consulate has no record of this decree having ever been officially published.) Subsequent to the approval of this decree, the Iranian Government promulgated on May 12, 1960, a law establishing an Office of Ports and Navigation within the Ministry of Customs and Monopolies. This law was more general in nature than the above mentioned decree and made no specific reference to the Shatt al Arab River which, however, can be presumed to fall under all ports, anchorages, canals, lakes and navigable waters as well as territorial waters covered by the provisions of the law. (See Consulate Despatch No. 70, dated June 5,

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Desp 12

From Khorramshahr

1960). Any implementation of this decree and law would undoubtedly conflict with the responsibility of the Basra Port Administration (BPA) for and the jurisdiction of Iraq over the major portion of the Shatt al Arab River which a succession of treaties from the Treaty of Erzerum in 1847 through the Treaty of 1937 between Iraq and Iran has established as lying within the limits of Iraqi territory. This is precisely what has occurred.

## 2. Plans of Khorramshahr Port Office (KPO)

Approximately a week after the establishment of the KPO, Ali MOGHADAM, its newly appointed Director General (formerly in charge of Marine Liaison for the National Iranian Oil Company-NIOC), informed this Consulate that the KPO would, for the time being, confine itself to berthing operations. This meant, in effect, that the KPO had the intention of taking over the berthing responsibility for the port of Abadan which was being handled by Iraqi berthing masters belonging to the BPA. Khorramshahr port berthing was already in the hands of the Iranians. Moghadam indicated that the eventual goal of the KPO was to provide pilot service on the Shatt al Arab for all ships bound for Iranian ports. He realized, however, that it would probably take a minimum of two years to train the pilots necessary to undertake this function. Moghadam, of course, recognized the difficulties which would be involved in the development of the necessary cooperation between BPA and KPO in order to accomplish this.

## 3. Discussion of Abadan Berthing with BPA

On August 8, 1960, Moghadam went to Basra to discuss with the BPA Director General the takeover by Iranians of berthing services for the port of Abadan. He was given a very cool reception by the Iraqis who, Moghadam reported, questioned his authority to negotiate such a transfer. The Basra officials informed him that this was a matter for discussion at a higher level, noting that, in any event, the BPA was performing these services at Abadan at the request of the Consortium. They referred to an alleged agreement concluded with the Consortium in 1954 at the time it took over the operation of the Abadan Refinery for the NIOC. (The 'NA' was presumably referring to a meeting between Captain E. PUTTY of NIOC and Captain C. E. THOMPSON, BPA Port Officer, which took place on October 12, 1954, reported in Consulate Basra Despatch No. 82, February 27, 1960.) Moghadam immediately brought this situation to the attention of his superiors in Tehran. The outcome was a letter, dated August 9, 1960, from the NIOC to the Consortium requesting the latter to inform BPA that its services were no longer required. The Consortium acquiesced and the following procedure was agreed upon. The Ministry of Customs and Monopolies would provide the Consortium with a letter informing it of KPO's assumption of the Abadan berthing responsibility as of August 27, 1960. A copy of this letter would be attached to the Consortium's letter to BPA, thus explaining its request for termination of these services. A hitch in this procedure developed when the

CONFIDENTIAL

Desp 12

From Khorramshahr

Consortium representatives who were to deliver this letter personally to Basra were unable to obtain Iraqi visas. Finally, on August 25, two IORC officials in Abadan were permitted to proceed to Basra for this purpose, albeit without Iraqi visas. The IORC General Refinery Manager claimed that this was made possible through the action of General Qasim himself, who apparently took a personal interest in the entire proceeding. After sitting through a rather insulting diatribe by the MPA Director General, the IORC representatives were told that the Iraqis had no intention of turning over the berthing function to the Iranians.

#### 4. Events Leading to Irano-Iraqi Standoff

On August 23, KPO Director General Moghadam appointed S. Z. THOMASZADEN Abadan Port Officer and announced the KPO assumption of berthing responsibility as of August 27 (see Enclosure 2). According to this notice, Iranian instead of Iraqi berthing masters would meet Abadan-bound vessels in the Shatt al Arab at Sawarda Reach just below Abadan. Here the boundary veers from the low water mark on the Iranian side to the thalweg which runs some 400 yards out from the port jetties. The Iranian would take over at that point from the Iraqi pilots who had guided the vessels up the Shatt al Arab from the Persian Gulf. The reverse would be true for the return trip. On the following day, August 24, the MPA issued a notice to all shipping agents (see Enclosure 3) warning them that any vessel accepting Iranian berthing masters on the trip upstream would not be provided with Iraqi river pilots for the return trip. Since ship movements on the Shatt al Arab are controlled by the MPA, this would mean that the vessel concerned would be stuck at Abadan. MPA also threatened to take "severe measures" against those agents whose vessels contravened the Iraqi order. The MPA based its action not only on its agreement with the Consortium (which the notice, incidentally, states was signed on ~~October 12~~, 1954, although the Consortium has no record of such a document), but also on the grounds that the berthing of ships by an inexperienced KPO would endanger the safety of Shatt al Arab navigation for which MPA is responsible.

Faced with the prospect of the stoppage of tanker traffic to Abadan, the IORC General Refinery Manager informed Moghadam that, because of the acute lack of storage capacity at this time, the refinery might well have to close down if tankers could not move as scheduled. Moghadam immediately repaired to Tehran where the Iranian Government took the decision not to challenge Iraqi control of Abadan berthing for the time being. Upon his return to Khorramshahr on the evening of August 25, Moghadam informed the Consulate that, in order to avoid trouble, the implementation of the KPO takeover of Abadan berthing would not take practical effect for a few days. He said that Iranian Berthing masters would board tankers, but would make no attempt to displace Iraqi berthing masters. Due to the objection of the Iraqis, this procedure was soon abandoned. The adoption of this passive attitude on the local level was confirmed at the higher level by Foreign Minister Aram who informed Ambassador

CONFIDENTIAL

From Khorramshahr

Wailies that the Shah had agreed to postpone the implementation of the Abadan berthing takeover to allow sufficient time for further discussions.

### 5. Iraqi Position

Under the Port of Basra Proclamation of 1919 and the Port of Basra Rules and By-laws the BPA has jurisdiction over the Shatt al Arab from above Basra to the Persian Gulf, including those areas of the Shatt al Arab where Iranian ports are situated. This situation was modified by the Treaty of 1937 to include that portion of the river fronting Abadan in Iranian territory. (The Khorramshahr harbor, on the confluence of the Karun and Shatt al Arab rivers, had earlier been recognized as lying in Iranian territory.) This modification had not had any practical effect on the BPA control of Shatt al Arab navigation, nor, for that matter, its responsibility for berthing of ships at Abadan, which was reconfirmed by the Consortium in 1954.

### 6. Iranian Position

The Iranians, in seeking to assume responsibility for Abadan berthing, maintain that this is a question which pertains solely to Iranian waters. They see no difference between Iranian berthing of ships at Khorramshahr, which has long been the case, and performing the same function at Abadan.

### COMMENT

It is indeed possible that, if the Iranians had sought to obtain Iraqi agreement to their proposal for Abadan instead of springing it on the BPA with such little advance notice, a satisfactory arrangement may have been reached without the present flare-up. On the other hand, this assumption may not be necessarily true, in view of the adamant attitudes demonstrated in the past by the Iraqis as well as the Iranians.

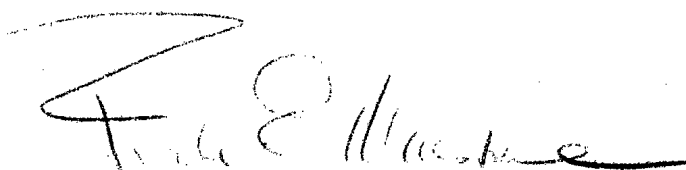
While the Iranians have backed down for the moment and the heat is off, so to speak, it would not be safe to assume that this state of affairs can continue over a longer period. Although this situation has not been aired publicly, it is, indeed, public knowledge in shipping circles and, therefore, Iran must be considered as committed to this course of action. In fact, according to the Iranian Foreign Minister, the Shah, in postponing the implementation of this program, specifically indicated that he felt he was free to act in Iran's best interests in this matter because it was purely an Iranian one. Unless discussions between Iran and Iraq can result in a successful solution of this problem, the entire dispute over the Shatt al Arab can be expected to flare up again.

"Although the Iranian demands in this present situation may seem to be reasonable by the nature of their limitations, it is my opinion, and one I suspect shared by the Iraqis, that this is merely another step, calculated or otherwise, in Iran's campaign to rectify what

Desp 12  
From Khorramshahr

it considers to be the injustices forced upon it by previous treaties concluded when Iran was in a disadvantageous position. Moghadam, in my conversations with him, emphasized that a revision of the Treaty of 1937 was badly needed by the Iranians. He cited the absurdity of the fact that any jetties which Iran might decide to build along the Shatt al Arab (with the exception of Khorramshahr and Abadan) would be located in Iraqi waters, i.e. Khosrowabad, because the boundary follows the Iranian low water mark. He stressed the point that the Treaty of 1937 was never completely implemented, referring to the protocol obligating the two countries to conclude the convention mentioned in Article 5. He implied, that, if Iraq were unwilling to make the necessary concessions, Iran should denounce the treaty.

It is clearly our policy not to become involved in the Shatt al Arab dispute. However, I believe that we should not hesitate to use our influence, whenever feasible, to encourage the Iranians to avoid any provocative moves in this direction. In our anxiety not to become involved, we may fail to avail ourselves of an opportunity to help prevent the development of this affair into a crisis situation. This would seem to me to be in line with our general interest in the maintenance of peace and tranquility in the Middle East.



Frank E. Maestroni  
American Consul

- Encl: 1. Text of April 16 decree  
2. KPO Announcement No. 2  
3. BPA Notice No. 19/Adm. 38 A/21

Copies to: Tehran, Baghdad, Basra, London, Isfahan, Tabriz, Meshed

CONFIDENTIAL

Desp 12

From Khorramshahr

The Council of Ministers approved the following provisions in its meeting of April 16th, on the basis of a proposal of the same date made by the Ministry of Finance with the concurrence of the Ministry of Customs and Monopolies (in view of the questions involving port administration):

1. The jurisdiction of the Port of Khorramshahr shall extend from the point of confluence of Karun to Ahwaz Bridge and from Khayyen Creek to the open sea.

2. A department is hereby set up, called the Khorramshahr General Port office to serve as the exclusive authority for discharging all duties and services relating to port management, such as pilotage, erection of navigation aids, berthing, hydrographic surveys, etc., within the jurisdiction of the Port of Khorramshahr which shall include the principal ports of Khorramshahr, Abadan, and Khosrowabad and any other ports which may be created in the future.

3. The Khorramshahr General Port Office shall fix a tariff of port dues in respect of each port within its jurisdiction, whether existing now or to be created in the future, in proportion to services rendered at that port, and shall propose the same to the Council of Ministers for approval, whereafter such dues shall be collected from users. Such dues shall be spent exclusively for the improvement and promotion of navigation and related activities within the jurisdiction of the Port of Khorramshahr.

4. The Ministry of Customs and Monopolies shall make necessary arrangements for the provision of facilities and preliminaries pertaining to the execution of the above functions, and shall facilitate in every way the urgent implementation of the provisions of this Decree.

5. The Khorramshahr General Port Office shall be directly responsible to the Minister of Customs and Monopolies.

6. The Ministry of Customs and Monopolies and the Ministry of Finance are charged with the enforcement of this Decree.

The Decree is on file in the Prime Minister's Office.

CONFIDENTIAL



Desp 12  
From Khorramshahr

CIRCULAR No. 2

To all ship Agents,  
K'SHAHR and ABADAN.

We have pleasure to announce that a Port Organization has been established at Abadan and will commence operations on 27th August 1960 at 0001 hours and it will be responsible for Berthing, Mooring and Unberthing of all Vessels visiting Abadan and also will co-ordinate with Iraqi Port Authorities the needs for River pilots for Abadan ships. The Port offices are situated at a building opposite no. 19 Jetty at Bawarda Telephone Nos 9712 and 9722 an asphalt road leads to the front gate which all ship Agents representatives have to use.

All ship Agents are requested to advise their respective principals of this organization and also to instruct the masters of the vessels under their Agencies visiting Abadan Port to comply with the under-noted procedure and rules:-

1. That masters of all vessels are required to accept the services of Berthing Masters, Mooring launches, and Wharf Gang attached to the Abadan Port Organization.
2. That all masters will signal their exact ETA at Abadan to Abadan Port through EQZ coastal Station up to 0001 hours on 1st September 1960 and thereafter through EPYB (Banjar Mashur) in order that vessels will be berthed promptly.
3. That all masters will sign the documents presented to them in connection with the Port dues and charges for the services rendered, etc.
4. That all ship Agents will advise the Abadan Port Organization in writing, giving information re arrival, departure, and purpose of the visit of the vessels under their Agency. The notification should reach the Abadan Port Organization (shift office) 24 hours prior to vessels arrival and to bear approximate ETA at ABADAN Port and also to include acceptance for the settlement of Port Bills.
5. A wireless message will be broadcasted to masters of vessels by Abadan (EQZ) advising them to give exact ETA through channels as per item No. 2.

Notice is herewith served to all ship Agents that failure to comply with the above instructions will cause unnecessary delays to the vessels and responsibility will rest solely on the Agents concerned.

Further circulars will be issued to all concerned indicating other important information regarding the Port of Abadan.

23-8-60  
AMT/H, SH

Director General of Khorramshahr  
Port Organization  
A. M. Moghaddam

Resp 12

From Khorramshahr

IRAQI PORTS ADMINISTRATION - BASRAH

Date - 24th August 1960

No. 19/ Adm. 30 A/21

Notification**To all Ships and Tankers Agents**

It has been brought to our Notice that **Sd. Ali Mohd. Mukadam** - the Director General of Khorramshahr Port Organisation has issued a Circular dated 23rd August 1960 commending to the effect that a new Port Organisation has been established at Abadan in order to run the Macoubour Masters duties, berthing and unberthing operation in Abadan Harbour. The organisation will co-operate with the Iraqi Ports Administration in organising the pilot service.

This Port organisation of Abadan will, similarly, collect Dues incurred in Vessels and Tankers against these services.

This Administration holds itself responsible for the services undertaken by the Harbour Masters in Abadan Port in accordance with the Agreement concluded with the Consortium and signed on 12/10/1954 by competent authorities of the Administration and the Company's as well. Besides the Administration has never agreed with any party whatever either to alter this agreement or to abolish it and in accordance with this agreement, the same consider itself liable to maintain, as before, the services of the Harbour Masters in Abadan.

As you are well aware, the running of such services i.e. Berthing of Tankers and other Vessels in Abadan Harbour and movements of Ships in that area by an organisation of no sufficient experience and the lack of a unified control for the movement of ships in the Shatt- will endanger the navigational channels in the Shatt-al-Arab and renders stopage of navigation

Such a result will be to no one's interest. On the contrary, it will be detrimental to the interest of all those concerned with vessels and tankers plying in Shatt-al-Arab being entirely an Iraqi territorial waters.

Under these circumstances the Iraqi Ports Administration have no alternative but to do their best and take the prompt and necessary action to forbid the said Organisation from carrying out such duties as will finally tend to hinder the navigations in Shatt-al-Arab.

This Administration therefore, has decided not to provide Pilots to any vessel on which Iraqi Harbour Masters are not allowed to carry out their duties of berthing and unberthing of vessels or oil tankers in Abadan Harbour.

This Administration hold the Abadan Organisation answerable

CONFIDENTIAL



Page 2  
Encl 3  
Desp 12  
From Kherranshahr

for the consequences which arise as a result for the individual actions taken by this Organisation without consulting this Administration.

We hope that your Organisation will co-operate with this Administration as not to allow any unauthorised persons by this Administration to pilot vessels or Tankers held by your Agency or to carry out Harbour Masters services in Abadan. We will, however, not fail to take severe measures against agents of vessels who will give way to contravene this notification so that we may insure the safety of navigation in Shatt-al-Arab which is in prime responsibility of this Administration.

(signed)  
M. Shawl

DIRECTOR GENERAL  
IRAQI PORTS ADMINISTRATION

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